

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 12 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

JANET ROSE ROTH,

Plaintiff - Appellant,

v.

DRIVETIME CORPORATION; et al.,

Defendants - Appellees.

No. 05-15029

D.C. No. CV-03-00839-SRB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Susan R. Bolton, District Judge, Presiding

Submitted December 5, 2005 **

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Janet Rose Roth appeals pro se the district court's order granting summary judgment to defendant DriveTime Corporation in her action alleging violation of Title VII of the Civil Rights Act of 1964 and the Age Discrimination in

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Employment Act. We have jurisdiction pursuant to 28 U.S.C. § 1291. After de novo review, *Arakaki v. Hawaii*, 314 F.3d 1091, 1094 (9th Cir. 2002), we affirm.

The district court correctly concluded that the severance agreement executed by Roth contained the protections statutorily required by the Older Workers Benefit Protection Act. *See* 29 U.S.C. § 626(f). The evidence before the district court did not present a genuine issue of material fact as to whether Roth knowingly and voluntarily signed the waiver of claims, and she is therefore precluded from bringing suit. *See Stroman v. West Coast Grocery Co.*, 884 F.2d 458, 462-63 (9th Cir. 1989) (listing lack of ambiguity of agreement, education and business experience of plaintiff, presence of noncoercive atmosphere for the execution of the release, and availability of legal counsel as factors for determining “voluntary, deliberate, and informed” waiver of claims in Title VII cases); *see also FTC v. Publ’g Clearing House, Inc.*, 104 F.3d 1168, 1171 (9th Cir. 1997) (holding that conclusory, self-serving statements lacking detailed facts and supporting evidence are insufficient to create a genuine issue of material fact).

Roth’s remaining contentions lack merit.

We deny Appellees' request for attorney's fees pursuant to Fed. R. App. P. 39, without prejudice to the filing of such a motion in accordance with Ninth Circuit Rule 39-1.

AFFIRMED.